THE HON'BLE MRS JUSTICE T.MEENA KUMARI
&
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION NO.19226 OF 2000

Dated: 26.06.2007

Between:

K. Venkateswarlu

..Petitioner

And

1. The Divisional Mechanical Engineer,
   Power/GTL, South Central Railways, Guntakal
   Division, Guntakal Ananthapur District and
others.

.. Respondents.

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.19226 OF 2000

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioner challenging the order, dated 31.8.1999 passed by the Central Administrative Tribunal in O.A.No.764 of 1998.

The petitioner herein is the applicant before the Tribunal.

Originally, the petitioner-applicant filed the above O.A., aggrieved by the orders dated 27.5.1997, 18/25.11.1997 and 18.5.1998 of the Disciplinary, Appellate and Revisionary authorities removing him from service.

The tribunal having observed that in the absence of any malafides on the part of the authorities, the order of removal cannot be set aside, dismissed the O.A. Having aggrieved by the same, the present writ petition is filed.

It is the case of the petitioner-applicant that while he was working as Driver (Goods) at Nandalur, on 27.7.1996, he was deputed to work on Rayapuram (Special) Goods train, which starts from Kodur to Renigunta. The train was loaded with barites and the original capacity of the load was 2500 tonnes whereas it has been loaded with 3350 tonnes i.e.,34% excess to the actual capacity, but the said fact was not brought to his notice. The train started from Kodur on 27.7.1996 at about 17.30 hours and while it was proceeding towards Renigunta at about 20-40 hours, 11 bogies are derailed at Mamandur station and 4 of them were capsized. In this regard, a charge memo

was issued to him, enquiry was conducted and he was removed from service by the 1st respondent. He preferred the appeal and thereafter, the revision, but the appellate authority (2nd respondent) and the revisional authority (3rd respondent) mechanically confirmed the order of dismissal. Hence, he filed the present writ petition.

Heard both the Counsel and perused the material available on record.

The learned Counsel for the petitioner-applicant contends that it is the duty of the Station Superintendent to check the load and that the respondents-authorities failed to provide a brake van and if it were provided, the guard would have assisted the driver in applying the end brake. It is also contended that basing on presumption of actual capacity of the load, the enquiry report was given, but not on the real loading of the train and without considering all these aspects, the respondents-officials removed him from service and therefore, the order of removal is liable to be set aside

On the other hand, it is the case of the respondents-authorities that the train was derailed due to overloading permitted by the petitioner, but not due to mechanical defect and that the explanations submitted by the applicant go to show that he did not take care and caution as to the overloading and he did not bring it to the notice of anybody at the starting point and therefore, the punishment of removal is sustainable and it needs no interference.

A perusal of explanation given by the petitioner-applicant goes to show that the train was overloaded and he was careful in applying brakes, but could not control the train due to overloading. It is not his case that he brought to the notice of the officials about the overloading, but they did not take any action and it is also not his case that he did not know the actual loading of the train. It is his case that the train was

not provided with a brake van. But he failed to raise such objection before departure of the train. Having such knowledge about the actual loading of the train, the failure on the part of the petitioner-applicant in checking the loading at the earliest point of time and in bringing the same to the notice of the officials, leads to draw an inference as to his dereliction, which resulted in derailment of Goods train. Material on record further goes to show that he was working as Goods Driver since 1992. Therefore, he would have knowledge about the precautions to be taken while driving the goods train.

In that view of the matter, we have no hesitation to hold that the order of the Tribunal needs no interference.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 26.06.2007
Nn/gurc

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.19226 OF 2000

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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Dated: 26.06.2007